

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**PARKER CLA PARTNERS,
LTD., a Texas limited liability
company,**

Plaintiff,

VS.

**CHILDREN'S LEARNING
ADVENTURE USA, LLC, an Arizona
limited liability company**

Defendant.

Case No.

COMPLAINT

Parker CLA Partners, LLC, a Texas limited liability company (“**Plaintiff**”), for its complaint against Children’s Learning Adventure USA, LLC, an Arizona limited liability company (“**CLA**” or “**Defendant**”), hereby states as follows:

PARTIES

1. Plaintiff Parker CLA Partners, LLC is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business located at 1207 Antoine Drive, Houston, Texas 77055. Plaintiff may be served through the undersigned counsel. None of the members of Plaintiff are citizens of the State of Arizona for purposes of diversity.

2. Defendant Children's Learning Adventure USA, LLC, is a limited liability company organized and existing under the laws of the State of Arizona and has its principal place of business at 14631 N. Scottsdale Road, Ste. 200, Phoenix, AZ. Service of process on defendant may be made according to the laws of the State of Texas by serving the Texas Secretary of State. All members of Defendant are citizens of the State of Arizona for purposes of diversity.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 in that the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs, and is between citizens of different states.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district and because Defendant is subject to personal jurisdiction in this district and because Defendant has agreed to venue for this case in the Southern District of Texas.

5. This Court has personal jurisdiction over the Defendant because the causes of action arose in Texas and the transactions and occurrences out of which the cause of action arose took place in Texas.

FACTUAL BACKGROUND

A. CLA's Operations

6. CLA is a retailer that operates dozens of centers across several states for pre-school education, before-school childcare, after-school enrichment, and summer camp under the trade name "Children's Learning Adventure." CLA does not own any of these centers. Rather, CLA is a parent to a fully-owned subsidiary for each of the centers. Each subsidiary, as a tenant, has entered into a long-term lease with the corresponding landlord for each facility. Plaintiff is the owner and landlord for one of these centers located at 9190 Crown Crest Blvd Parker, CO 80138 (the "***Center***"). *Id.*

7. Plaintiff and CLA Parker, LLC (a subsidiary of CLA) ("***Tenant***") entered into a Lease on September 30, 2013. In order to induce Plaintiff to enter into the Lease with Tenant, and as additional consideration for the Lease, CLA executed a Guaranty dated September 30,

2013 (the “*Guaranty*”) regarding the Lease. A true and correct copy of the Guaranty is attached hereto as Exhibit 1 and is fully incorporated herein.

8. Through the Guaranty, CLA guaranteed payment of all obligations and other amounts under the Lease, performance of every obligation under the Lease, and all expenses of obtaining or endeavoring to obtain payment or performance of the Lease itself. Moreover, Defendant has waived all defenses against enforcing the Guaranty except for payment. Moreover, CLA has waived all defenses against enforcing the Guaranty except for payment. *Id.* ¶¶ (a)-(e) (“Guarantor hereby waives, to the fullest extent permitted by law ...”).

B. Defaults and Plaintiff’s Remedies under the Guaranties

9. Tenant’s lease payments and property taxes under the Lease are past due for the months of December 2015 through the present. As of May 31, 2019 the Tenant is in default for nonpayment of \$1,336,968.55 under the Lease. The missed payments are an event of default under the Lease. CLA has not paid or arranged for payment of the amounts due and owing under the Lease, which constitutes a default under the terms of the Guaranty.

10. Defendants are liable for all amounts owing under the Lease, including, without limitation, all rent, late charges, consequential damages, and attorneys’ fees and costs incurred by Plaintiff in enforcing its rights and remedies under the Lease.

11. Because of the existing events of default on the Lease, under the Guaranty, Defendant is liable for all amounts owing under the Lease, including, without limitation, all rent, late charges, consequential damages, and attorneys’ fees and costs incurred by Plaintiff in enforcing its rights and remedies under the Lease

CAUSES OF ACTION

COUNT I

Cause of Action for Breach of Contract:

Guaranty

12. Plaintiff incorporates by reference the allegations set forth in each of the preceding paragraphs as though they were set forth herein.

13. The Guaranty constitutes an enforceable contract between the Plaintiff and CLA. Plaintiff has performed all of its obligations under the Guaranty, including entering into the Lease with Tenant.

14. CLA defaulted under the Guaranty by failing to make, among other obligations, all payments due under the Lease as agreed in the Guaranty.

15. All conditions precedent to CLA's liability have occurred or have been waived.

16. As a direct and proximate result of CLA's defaults, Plaintiff has incurred and will incur actual damages in excess of the minimum jurisdictional limit of this Court, for which Plaintiff now sues.

Cause of Action for Attorneys' Fees

17. Plaintiff incorporates by reference the allegations set forth in each of the preceding paragraphs as though they were set forth herein.

18. Pursuant to the terms of the Guaranty, Plaintiff seeks recovery of its attorneys' fees and expenses to enforce its rights herein.

Prayer

WHEREFORE, Plaintiff requests that the Court issue citation for defendant to appear and answer, and that plaintiff be awarded a judgment against defendant for the following:

- a. Actual damages;
- b. Prejudgment and post judgment interest;
- c. Court costs;
- d. Attorney fees and costs; and
- e. All other relief to which plaintiff is entitled.

Dated: September 10, 2019.

Respectfully Submitted,

REED SMITH LLP

/s/ Keith M. Aurzada

Keith Miles Aurzada

Texas State Bar No. 24009880

Bradley J. Purcell

Texas State Bar No. 24063965

REED SMITH LLP

2501 N. Harwood

Suite 1700

Dallas, TX 75201

Phone: (469) 680-4221

Fax: (469) 680-4299

Email: kaurzada@reedsmith.com

Email: bpurcell@reedsmith.com